

(3) In the case of a national nonprofit organization, has been in existence for at least five years prior to the date of application and has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;

(4) In the case of a regional or State nonprofit organization, has been in existence for at least three years prior to the date of application and has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 or is otherwise a tax-exempt entity;

(5) Has a record of service to low income individuals or community-based nonprofit housing development in multiple communities and, with respect to intermediaries administering assistance under §248.405, has experience with the allocation or administration of grant or loan funds; and

(6) Meets standards of fiscal responsibility established by the Commissioner.

PART 251—COINSURANCE FOR THE CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF MULTIFAMILY HOUSING PROJECTS

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AUTHORITY: 12 U.S.C. 1715b, 1715z-9; 42 U.S.C. 3535(d).

§ 251.1 Termination of program.

(a) Effective on November 12, 1990, the authority to coinsure mortgages under this part is terminated, except that the Department

(1) Will honor legally binding and validly issued commitments issued before November 12, 1990 and

(2) Will accept for review the coinsurance applications described in paragraph (b) of this section.

Part 251, as it existed immediately before November 12, 1990, will continue to govern the rights and obligations of coinsured lenders, mortgagors, and the

Department of Housing and Urban Development with respect to loans coinsured under this part.

(b) A precommitment review procedure applies to any application for mortgage coinsurance for which a lender has accepted a non-refundable application fee before November 12, 1990 under this part and for which a legally binding Conditional or Firm Commitment is proposed to be issued. This procedure applies to lenders with preliminary as well as full approval to process coinsurance applications and without regard to whether the lender is under probation. For any coinsurance application for which the lender has accepted an application and a non-refundable application fee before November 12, 1990, the lender shall, prior to commitment, submit to HUD headquarters and to the HUD field office with jurisdiction for the proposed project such exhibits and other information as has been specified in administrative instructions of the Commissioner. The lender shall not issue a commitment without written approval from the Commissioner. Field Offices shall not endorse any case covered by this precommitment review requirement unless the lender submits with the endorsement package evidence of the Commissioner's approval of the processing and evidence of compliance with any conditions imposed by the Commissioner.

(c) Extensions of commitments for projects which had outstanding legally binding commitments as of November 12, 1990 are limited as follows:

(1) Firm commitments for insurance of advances may be granted two 60-day extensions;

(2) Conditional commitments may be granted one 60-day extension;

(3) Firm commitments for insurance upon completion may not be extended.

However, should any underwriting conclusions be altered and reflected in the extension, the project must be submitted for precommitment review in accordance with paragraph (b) of this section. In the event an extension is required beyond those provided for in this paragraph, the case will be subject to the precommitment review process described in paragraph (b) of this section.

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(d) Reopened expired commitments are subject to precommitment review under paragraph (b) of this section.

(e) HUD considers a commitment to be *legally binding* if:

(1) It conforms to the format prescribed in the appropriate HUD Handbook and contains only such modifications as have been approved by HUD in writing;

(2) All required underwriting, analyses, reviews and approvals have been accomplished prior to issuance of the commitment;

(3) It conforms to HUD requirements pertaining to initial term and extension;

(4) It obligates the lender and HUD to proceed to the next stage (*i.e.*, firm commitment in the case of a conditional commitment, or endorsement in the case of a firm commitment) if the applicant mortgagor complies with all conditions of such commitment;

(5) It does not permit the lender to change unilaterally the conditions or terms of the commitment; and

(6) It is signed by an official of the coinsuring lender who has been designated and authorized in accordance with HUD requirements.

(Information collection requirements in paragraph (b) were approved by the Office of Management and Budget under control number 2502-0437)

[55 FR 41318, Oct. 10, 1990]

§ 251.2 GNMA right to assignment.

If the lender-issuer defaults on its obligations under the GNMA Mortgage-Backed Securities Program, GNMA will have the right to cause all Coinsured Mortgages held in GNMA pools by the defaulting coinsuring lender-issuer to be assigned to another GNMA-approved coinsuring lender-issuer, or to GNMA itself.

(a) For any Coinsured Mortgage that is not in default and is held by a defaulting lender-issuer, GNMA will have the right to perfect an assignment of the mortgage to itself. However, before exercising this right, GNMA will attempt to have the Mortgage assigned to another eligible coinsuring lender (unless GNMA determines, with the agreement of the Commissioner, that the attempt would prove ineffectual because of market conditions or other

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factors). This attempt will be undertaken by soliciting offers to assume the defaulting lender-issuer's rights and obligations under the Mortgage from those eligible coinsuring lenders that are also GNMA issuers and that are indicated on a periodically updated listing furnished to GNMA by the Commissioner.

(b) For any Coinsured Mortgage that is in default and held by a defaulting lender-issuer, GNMA will have the right to perfect an assignment of the Coinsured Mortgage directly to itself before extinguishing the Mortgage by completion of foreclosure action or acquisition of title by deed-in-lieu of foreclosure.

(c) GNMA, as assignee, will give the Commissioner written notice, within 30 days after taking a Mortgage by assignment in accordance with this section, in order to allow an appropriate endorsement and necessary changes in the Commissioner's records.

(d) The Commissioner will endorse any Mortgage assigned to GNMA as provided by this section for full insurance, effective as of the date of assignment in accordance with the appropriate provisions of 24 CFR part 221. Any future claim by GNMA, or any assignment of the fully insured Mortgage, will be governed by the appropriate provisions of 24 CFR part 221, except that any payment will be made in cash instead of debentures.

[59 FR 1475, Jan. 11, 1994]

§ 251.3 Case-by-case conversion to full insurance.

Upon the request of a coinsuring lender, the Commissioner may endorse a coinsured Mortgage for full insurance, effective as of the date of such endorsement, if the Commissioner is satisfied that:

(a) Continuing the Mortgage under coinsurance could jeopardize the lender's viability and ability to service its remaining portfolio of coinsured Mortgages;

(b) The lender has made reasonable efforts to work out any Mortgage default consistent under 24 CFR 251.811 (1990), but the remedies available to the lender have not been adequate to reinstate the Mortgage;